

UNITED STATES DISTRICT COURT  
WESTERN DISTRICT OF WASHINGTON  
AT TACOMA

BRADLEY ALLEN GRUBHAM,

Petitioner,

v.

SUPERINTENDENT OBERLAND,

Respondent.

CASE NO. C13-5646 RJB-JRC

ORDER GRANTING PETITIONER'S  
MOTION TO STAY THIS PETITION  
AND HOLD IT IN ABEYANCE

The District Court has referred this 28 U.S.C. § 2254 petition to the undersigned Magistrate Judge. Petitioner asks that the Court stay this matter and hold it in abeyance (ECF No. 18). This is petitioner's second motion to stay this matter and hold it in abeyance. When petitioner first filed this motion, he did not sign the pleadings (ECF No. 10). Respondent has filed a response to petitioner's motion and agrees that this petition should be stayed (ECF No. 21).

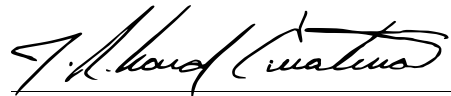
District courts may use a "stay-and-abeyance" procedure while a petitioner exhausts his claims in state court. *Rhines v. Weber*, 544 U.S. 269, 275-77; *Calderon v. United States District Court (Taylor)*, 134 F.3d 981, 988 (9th Cir.1998). In determining whether the petition should be

1 stayed, the Court must also “be mindful that AEDPA aims to encourage the finality of sentences  
2 and to encourage petitioners to exhaust their claims in state court before filing in federal court.”  
3 *Wooten v. Kirkland*, 540 F.3d 1019, 1024 (9th Cir. 2008), *cert. denied*, 129 S.Ct. 2771 (2009)  
4 (holding that petitioner’s “impression” that defense counsel had exhausted all of the issues in  
5 state court did not fulfill the requirement to show “good cause”).

6 Both parties agree this action should be stayed. The Court grants petitioner’s uncontested  
7 motion. The matter is stayed until May 9, 2014. Petitioner will file a report and, if needed, a  
8 motion to extend the stay on or before April 30, 2014 -- ten days before the stay ends. Petitioner  
9 will inform the Court of the status of his state proceedings. Petitioner’s report will include the  
10 state court cause number. Further, if the state court dismisses the petition or terminates review,  
11 petitioner will inform the Court and file a motion to lift the stay within 30 days of the state court  
12 taking action. Petitioner’s failure to file a proper report or inform the Court of the termination of  
13 state review will result in the Court issuing a report and recommendation that this petition be  
14 dismissed.

15 The Clerk’s office is directed to remove ECF motions 10 and 18 from the Court’s  
16 calendar.

17 Dated this 6<sup>th</sup> day of November, 2013.

18 

19 J. Richard Creatura  
20 United States Magistrate Judge